

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EDWARD MOTLEY,
Plaintiff,
v.
PATRICK COVELLO, et al.,
Defendants.

No. 2:24-cv-00002-DJC-EFB (PC)

ORDER

Plaintiff proceeds without counsel in this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On August 20, 2025, the Magistrate Judge filed Findings and Recommendations herein which were served on all parties and which contained notice to all parties that any objections to the Findings and Recommendations were to be filed within fourteen days. While Plaintiff's Objections were received after the deadline, the Court has considered them. (ECF No. 42.)

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the Court declines to adopt the Findings and Recommendations. While the Defendants argue that none of the Defendants are able to provide the requested

1 relief, Plaintiff has sued the Warden of Mule Creek State Prison where he is housed
2 and where the events at issue took place. While the previous Warden, Patrick Covello,
3 has retired, under Federal Rule of Civil Procedure 25(d), the new Warden, Luis
4 Garnica, is automatically substituted as a party. Moreover, under Title 15, California
5 Code of Regulations, section 3380, "[t]he warden or superintendent of an institution of
6 the department is the chief executive officer of that institution, and is responsible for
7 the custody, treatment, training and discipline of all incarcerated persons under his
8 charge." Accordingly, it would appear Warden Garnica is a proper party to this action
9 and that he has the authority over B dining hall at Mule Creek State Prison.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. The Acting Warden of Mule Creek State Prison, Luis Garnica, is substituted
12 as a Defendant pursuant to Rule 25(d) of the Federal Rules of Civil
13 Procedure;
- 14 2. The Findings and Recommendations filed August 20, 2025 (ECF No. 40) are
15 rejected; and
- 16 3. This matter is referred back to the assigned Magistrate Judge to consider
17 whether Plaintiff is entitled to preliminary injunctive relief on the merits.

18 IT IS SO ORDERED.

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20 Dated: **September 12, 2025**


21 Hon. Daniel J. Calabretta
22 UNITED STATES DISTRICT JUDGE
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